

## VIOLATIVE SALES OF PRESCRIPTION DRUGS

4001. Misbranding of pentobarbital sodium capsules and amphetamine sulfate tablets. U. S. v. Warren Drug Stores (Warren Drug Co. and Warren's A & T Drug Co.), Guy O. Martin, Jess H. Baker, Rex D. Oehm, Ernest E. Warneke, and Louis A. Fitl. Pleas of nolo contendere by each defendant. Fine of \$135, plus costs, against firm, \$30 against Defendant Martin, \$20 each against Defendants Baker and Oehm, and \$10 each against Defendants Warneke and Fitl. (F. D. C. No. 33747. Sample Nos. 14971-L, 14974-L, 14976-L to 14978-L, incl., 14982-L, 14985-L, 14986-L, 15204-L.)

INFORMATION FILED: January 28, 1953, District of Nebraska, against the Warren Drug Stores, a partnership, trading and doing business as the Warren Drug Co., at 515 Court St., Beatrice, Nebr., and as Warren's A & T Drug Co., at 608 Court St., Beatrice, Nebr., and against Guy O. Martin, Jess H. Baker, and Rex D. Oehm, partners in the partnership, and Louis A. Fitl, a pharmacist, and Ernest E. Warneke, a clerk employed by the partnership.

NATURE OF CHARGE: On or about March 26 and April 7, 18, 20, 22, and 23, 1952, while quantities of *pentobarbital sodium capsules* and *amphetamine sulfate tablets* were being held for sale at the Warren Drug Stores, after shipment in interstate commerce, various quantities of the drugs were repacked and dispensed without a prescription, which acts resulted in the repackaged drugs being misbranded as follows: Section 502 (b) (2), the repackaged drugs failed to bear labels containing an accurate statement of the quantity of the contents; Section 502 (f) (1), the labeling of the repackaged drugs failed to bear adequate directions for use; Section 502 (d), the repackaged *pentobarbital sodium capsules* contained a chemical derivative of barbituric acid, which derivative has been found to be, and by regulations designated as, habit forming; and the label of the repackaged capsules failed to bear the name, and quantity or proportion of such derivative and in juxtaposition therewith the statement "Warning—May be habit forming"; and, Section 502 (e) (2), a portion of the repackaged *amphetamine sulfate tablets* failed to bear a label containing the common or usual name of each active ingredient of the drug.

On or about April 26 and 27, 1952, while a number of *pentobarbital sodium capsules* and *amphetamine sulfate tablets* were being held for sale at the Warren Drug Stores, after shipment in interstate commerce, various quantities of the drugs were dispensed without a prescription from a practitioner licensed by law to administer such drugs. This act of dispensing was contrary to the provisions of Section 503 (b) (1) and resulted in the dispensed drugs being misbranded.

The partnership was charged in each of the 9 counts of the information with causing the acts of repacking and dispensing, and the individuals were joined as defendants in the several counts as follows: Guy O. Martin, counts 1, 2, and 6; Jess H. Baker, counts 3 and 4; Ernest E. Warneke, count 5; Louis A. Fitl, count 7; and Rex D. Oehm, counts 8 and 9.

DISPOSITION: February 10, 1953. Pleas of nolo contendere having been entered, the court imposed a fine of \$135, plus costs, against the partnership, \$30 against Defendant Martin, \$20 each against Defendants Baker and Oehm, and \$10 each against Defendants Warneke and Fitl.